

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Original  
13 CV 1960

JOHN RIVERA

(In the space above enter the full name(s) of the plaintiff(s).)

COMPLAINT

-against-

- (1) THE CITY OF YONKERS  
(2) YONKERS POLICE OFFICER ALEX DELLA-DONNA  
(3) YONKERS POLICE OFFICERS IDENTITIES  
UNKNOWN/ FICTITIOUS 3rd PRECINT -  
DIRTY THIRD.

Jury Trial: ☒ Yes ☐ No  
(check one)

ALL DEFENDANT(S) INDIVIDUALLY AND  
OFFICIALLY AND AS EMPLOYEES OF THE  
CITY OF YONKERS.

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name JOHN RIVERA 42879  
Street Address WESTCHESTER COUNTY JAIL  
County, City WESTCHESTER COUNTY  
State & Zip Code NEW YORK 10595  
Telephone Number \_\_\_\_\_

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name THE CITY OF YONKERS  
Street Address 40-SOUTH BROADWAY ROOM 300

Rev. 05/2010

MAR 21 2013

PRO SE OFFICE

U.S.D.C. N.Y.

County, City WESTCHESTER, YONKERS  
 State & Zip Code NEW YORK 10701  
 Telephone Number \_\_\_\_\_

Defendant No. 2 Name YONKESR POLICE OFFICER ALEX DELLA-DONNA  
 Street Address 104-SOUTH BROADWAY  
 County, City WESTCHESTER, YONKERS  
 State & Zip Code NEW YORK, 10701  
 Telephone Number \_\_\_\_\_

Defendant No. 3 Name YONKERS POLICE OFFICERS IDENTITIES FICTITIOUS  
 Street Address 104-SOUTHBROADWAY  
 County, City WESTCHESTER, YONKERS  
 State & Zip Code NEW YORK 10701  
 Telephone Number \_\_\_\_\_

Defendant No. 4 Name \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 County, City \_\_\_\_\_  
 State & Zip Code \_\_\_\_\_  
 Telephone Number \_\_\_\_\_

## II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal Questions

☐ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? 4-AMENDMENT ILLEGAL SEARCH AND SEIZURE  
MONELL CLAIM MUNICIPALITY EXCESSIVE FORCE 8th amendment  
14-AMENDMENT, OFFICIAL MISCONDUCT (STATE LAW)

5-AMENDMENT DUE PROCESS DEPRIVED OF PERSONAL PROPERTY.  
 C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship \_\_\_\_\_

Defendant(s) state(s) of citizenship \_\_\_\_\_

## III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events.



You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? ST. JOSEPH HOSPITAL , 103- OLIVER STREET YONKERS, N.Y.

B. What date and approximate time did the events giving rise to your claim(s) occur? December 10, 2012 APPROX TIME 10:00P.M.

C. Facts: On the date of december 10 2012 approx time of 5:00P.M. while in the City Of yonkers ,New York County of Westchester Oliver street Plaintiff was parked on oliver awaiting a friend to "MECHANIC" to adjust minor car troubles before plaintiff moved his personal property to a room he just rented on Central avenue suddenly a marked yonkers police vehicle arrived and turned on their vehicle color lights plaintiff knowing possed narcotics inside of a black pouch became nervous and started his vehicle and stepped on the gas in attempt to flee police this action caused plaintiff vehicle to flip over and land on a Yonkers police Crusier (not causing any one any harm) plaintiff then broke out his car window and took off on foot to avoid prosecution for drugs he possed, plaintiff was subsequently caught by unknown yonkers police officers defendant 3 plaintiff was struggling with police to avoid being placed in handcuffs finally plaintiff was placed in handcuffs after approx 20-seconds (SEE ATTACHED PAGES)

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

#### IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

assaulted by defendant 3 and received brusing thru out my body several marks thru out my legs causing me severe pain also defendant 2 relieved me of my personal property and money with out due process of the law Physical pain mental anguish ,swollen face eyes lumps on plaintiff head superficial scraches on plaintiff body.

while plaintiff lay on the concrete floor with handcuffs on several

unknown YONKERS POLICE OFFICERS ARRIVED Defendant 3 and started to kick and punch plaintiff thru out his body causing plaintiff severe pain and injury in his leg, back, chest, face, arms, Plaintiff had to be transported to St. Joseph medical center in Yonkers,N.Y.

for his injuries, while plaintiff was being treated in St. Joseph Medical center a Yonkers police officer arrived(under cover) named

Alex Bella Donna Defendant 2 from herein came to plaintiff and asked "WHERE'S THE REST OF THE MONEY " plaintiff replied I WANT A LAWYER defendant 2 then asked Plaintiff if he knew a girl named SONIA RIVERA

Plaintiff said no and asked defendant 2 why ? defendant 2 said " don't worry about it" Defendant 2 then questioned the police officers

assigned to watch plaintiff where's his property bag, the officers gave defendant 2 plaintiff property bag which consisted of the folowing

Items : \$ 800.00 dollars cash, two Gold chains one with a cross pendant , one with dog bone links, 3- BRACELETS GOLD, and a Citizen

Echo drive watch also plaintiff samsung 4g cell phone was inside of the bag containg plaintiff's property defendant 2 after reviewing the contents of plaintiff property said to plaintiff " THANK YOU DRUG DEALER " and left the hospital with plaintiff personal property plaintiff did not receive any vocher or a reciept for confiscated

property more so this property was not mentioned in any of plaintiff paper work as being confiscated. Later that day plaintiff

was booked at yonkers city jail for assault on police D-felony,

Possession of a controlled substance in a second and third degree and possession of a weapon third degree felony complaint 12-7232



defendant 2 in this felony complaint claims approx 5Hours after plaintiff flipped his vehicle he found 190 Grams of heroin inside plaintiff vehicle defendant 2 also claims he found a digital scale on the date in question . On the date of December 12,2012 plaintiff narcotics were turned over for a labortatory test to determine the quality and weight the test was performed by CRYSTAL R. WASHINGTON the results determined that plaintiff possed 5 seperate bags of narcotics 3- CONTAINED COCAINE A WEIGHT OF 57 GRAMS ,AND two CONTAINED HEROIN A WEIGHT 89 GRAMS, this report baffled plaintiff because plaintiff honestly did posses these drugs but plaintiff possed more then what was reported by defendant 2 , Defendant 2 failed to report 84 -GRAMS OF COCAINE plaintiff also had in that black pouch further more plaintiff had \$ 4,000.00 dollars cash inside the pouch with the narcotics in question this money was never reported or the 84-GRAMS OF COCAINE PLAINTIFF had in the pouch marked on the bag"84" . Plaintiff never received a vocher for the money taken or a form advising of it's confiscation , further more plaintiff never received a vocher for the property his vehicle contained prior to the accident / FLIPPING of the car plaintiff'S vehicle possed the following property: 1- X-Ray jacket \$300.00 2-Motor Cycle Helmet, 3-6-Bottles of Mo'et Champange,4- 80 DVD MOVIES,5- X-Ray Peacoat \$300.00,--6- North Face Spider Jacket \$1,000.00 ,7- JVC Big Screen / TV Radio, 8- TV's In Car Visors 9- RADIO AMPLIFIERS (2) , 10- two Speakers MKX 12'x 2 , 11- Speakers in Doors 6" x 02 x4 , 12- Social sec urity/ Birth certificate, 13- portable TV 10" 14- Hookah (SMOKING MACHINE) 15- I-PODS.

Plaintiff raises a monell claim against defendant 1 THE CITY of YONKERS for It's FAILURE TO SUPERVISE IT'S EMPLOYEES WHILE AWARE that DEFENDANT 2 is engaging in acts of misconduct due to several Complaints pending in this court pertaining to similar civil rights violations, also defendant 1 is aware that several YONKERS POLICE OFFICERS OFFICERS ARE ASSAULTING THEIR PRISONERS AND FAIL TO INTERVENE or create a policy or a supervisory system to prevent these assaults Defendant 1 has also been informed by complaints that defendant 2 is stealing from prisoners and not reporting all narcotics he finds including money he keeps during arrest from prisoners. Defendant 1 also fails to discipline it's officer when complaints are proven of misconduct, defendant 1 also fails to re-Train it's Police officers who show a pattern of misconduct further more defendant fails to properly investigate claims made by prisoners and citizen of Yonkers police officers misconduct, brutality, and corrupt police officers, Such as Vinnie devito, Peter Schwartz, R. McLaughlin, A. Della-Donna, Pataki, R. Montero, Cooper, Donohue, Medina, Rodriguez 3rd Pct, morello , several others, etc.

Plaintiff raises claims of 4-Amendment seizure of property with out probable cause or a warrant for taking plaintiff cell phone, \$, and jewelry (with<sub>out</sub>) reporting it. Plaintiff Raises A Claim of 5- amendment For taking the mentioned property without due process of the LAW! Plaintiff also raises a claim of 14-amendment Equal protection, as a citizen of THE UNITED STATES OF AMERICA and for depriving plaintiff of his property with out due process all CLAIMS

just mentioned are against defendant 2 further more plaintiff

raise all the same claims against defendant 2 for taking \$4,000.00  
from Plaintiff vehicle inside the pouch the narcotics were in.

Plaintiff now raises a claim against defendants 3 for the beating  
of plaintiff by several unknown officers while plaintiff was in  
handcuffed and not resisting Claims are excessive force 8-AMENDMENT  
14-AMENDMENT DENIAL OF EQUAL PROTECTION AS A CITIZEN OF THE  
UNITED STATES OF AMERICA.

PLAINTIFF RAISES A STATE CLAIM OF OFFICIAL MISCONDUCT AGAINST  
defendants 2,3 , Plaintiff as exhibits has attached copies  
of laboratory report, felony complaints and excerpts of the  
the UNITED STATES ATTORNEY'S OFFICE SOUTHERN DISTRICT OF NEW YORK  
"DEPARTMENT OF JUSTICE INVESTIGATION OF THE YONKERS POLICE DEPARTMENT  
INDICATING USE OF FORCE IDENTIFICATION.

Plaintiff also request the Court being the fact finder Identify any  
other violations.



**V. Relief:**

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation. For the defendant(S) to pay  
me \$TWO MILLION FIVE HUNDRED THOUSAND DOLLARS AND FIFTY  
CENTS. for relief for defandt(S) depriving plaintiff  
of his civil rights (FEDERALLY PROTECTED) and as compensation  
for \$ stolen from me by defendant 2 as well as setting PLAINTIFF  
up with more narcotics then what he had as well as stealing  
other narcotics plaintiff had , also for physical and mental  
pain.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 8 day of march, 20 13

Signature of Plaintiff

X. John R.

Mailing Address

WESTCHESTER COUNTY DEPT. OF CORR.  
VALHALLA, N.Y. 10595

Telephone Number

Fax Number (if you have one)

**Note:** All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

**For Prisoners:**

I declare under penalty of perjury that on this 8 day of march, 20 13 am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

X. John R.

Inmate Number

42879



EXHIBIT 1

MIKE SPANO  
MAYOR

CHARLES GARDNER  
POLICE COMMISSIONER



CITY OF YONKERS  
POLICE DEPARTMENT  
FORENSIC SCIENCE LABORATORY

ROBERT W. CACACE  
JUSTICE CENTER  
104 SOUTH BROADWAY  
YONKERS, NY 10701-4007  
Tel. (914) 377-7760  
FAX: (914) 377-7762

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LABORATORY REPORT

F.L.C. # 2649-12  
Incident # 122166

D.D. #  
Narco. #

Defendant(s): John Rivera

I, Crystal R. Washington, do hereby swear that I performed an analysis and obtained results on the following item(s) delivered to this laboratory by P.O. Schwartz #811 on 12/12/2012:

One (1) sealed Property Clerk envelope containing:

1. One (1) black pouch containing:
  - 1.1. One (1) digital scale with whitish residue.
  - 1.2. One (1) ziplock bag containing:
    - 2.1. One (1) knotted piece of plastic containing:
      - 2.1.1. One (1) knotted piece of plastic marked "52" containing tan powder.

Analysis of item #2.1 revealed the presence of Heroin. The weight of the powder contained in this item was 51.645 grams.

- 2.2. One (1) knotted piece of plastic containing tan powder.

Analysis of item #2.2 revealed the presence of Heroin. The weight of the powder contained in this item was 37.246 grams.

- 2.3. One (1) knotted piece of plastic containing:
  - 2.3.1. One (1) knotted piece of plastic containing beige material.

Analysis of item #2.3.1 revealed the presence of Cocaine. The weight of the material contained in this item was 26.111 grams.



This report does not constitute a case file. The case file may be comprised of worksheets, images, analytical data and other documents.

Notice: The making of false statements in this instrument is punishable as a CLASS 'A' Misdemeanor pursuant to section 210.45 of the penal law.

Reviewed by: